



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety Administration**

1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

DEC 19 2007

Mr. Adam B. Cramer
Leiter & Cramer PLLC
815 Connecticut Avenue, NW, Suite 220
Washington, DC 20006

Ref. No.: 07-0183

Dear Mr. Cramer:

This is in response to your September 21, 2007 letter concerning Special Provision 189 in § 172.102 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as amended in Docket HM-224C and HM-224E, published August 9, 2007 (72 FR 44929). Your questions are paraphrased and answered as follows:

- Q1. How many four-cell lithium batteries may be packaged together before a shipper of lithium batteries is subject to Special Provision 189, paragraph (f)?
- A1. Twelve. Special Provision 189, paragraph (f) states; "Except when contained in equipment, each package containing more than 24 lithium cells or 12 lithium batteries must be..." The threshold is based on batteries or cells; in your scenario you are shipping batteries and need only consider the quantity of batteries shipped.
- Q2. Special Provision 189, paragraph (f)(1) states; "Marked to indicate that it contains lithium batteries, and that special procedures should be followed in the event that the package is damaged..." What is meant by "special procedures?"
- A2. The "special procedures" should be specific actions to be taken, as determined by the offeror of the batteries, to protect the people and property in proximity to the batteries in the event of damage to the packaging. These instructions should include inspection and repackaging guidance if necessary.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Pollack
3173.185
Batteries
07-0183

Drakeford, Carolyn <PHMSA>

From: Gale, John <PHMSA>
Sent: Friday, September 21, 2007 7:14 AM
To: Drakeford, Carolyn <PHMSA>
Cc: Pollack, Arthur <PHMSA>
Subject: FW: Clarification question regarding HM 224-C

From: Adam B. Cramer [mailto:abc@leitercramer.com]
Sent: Thursday, September 20, 2007 4:20 PM
To: Gale, John <PHMSA>
Subject: Clarification question regarding HM 224-C

Mr. Gale --

I have two academic questions about the new lithium battery rule's Special Provision 189.

Section "F" provides for the ground shipment of lithium cells and batteries when they (1) are not contained in equipment and (2) exceed certain cells/battery per-package limits.

Question #1:

Are the 24 cell / 12 battery limits per package to be taken together or alternatively? Put another way, how many four-cell batteries could a package contain without triggering the requirements in F -- six of the batteries (containing an aggregate total of 24 cells) or twelve of the batteries (containing an aggregate total of 48 cells)?

Question #2:

Once the cell/battery per-package limits are exceeded (however the limits are determined) and the requirements in F are triggered, what exactly are the "special procedures" that should be followed when the package is "damaged?" I suppose the same question applies to the "special procedures" referenced in the accompanying document. Are the procedures to be developed by the shipper per their subjective assessment of what is best given the nature of the package? Could the procedure simply be to call a toll-free number for assistance? I cannot find any guidance on this in the Federal Register entry.

Thank you in advance for your insight on these queries.

Best regards,

Adam Cramer

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